

UNITED STATES DISTRICT COURT

DISTRICT OF NEVADA

ERIC FLORES,

Plaintiff,

v.

NEVADA DEPARTMENT OF
CORRECTIONS,

Defendant.

Case No. 2:20-cv-00693-RFB-EJY

ORDER**I. DISCUSSION**

Plaintiff, an inmate in the custody of the Nevada Department of Corrections (“NDOC”), initiated this case with a civil rights complaint pursuant to 42 U.S.C. § 1983. (ECF No. 1-1.) Two months later, Plaintiff filed a first amended complaint. (ECF No. 4-1.) Upon review, the Court notes that Plaintiff did not sign the first amended complaint. (*Id.* at 24). Under Rule 11 of the Federal Rules of Civil Procedure, a plaintiff who is not represented by counsel is required to sign every pleading, including a complaint. Fed. R. Civ. P. 11(a). Because Plaintiff did not sign the first amended complaint, the Court cannot consider it.

Accordingly, the Court grants Plaintiff leave to file a fully complete and signed second amended complaint within 30 days. If Plaintiff does not file a fully complete and signed second amended complaint, the Court will screen his initial complaint (ECF No. 1-1) and will not consider any allegations in Plaintiff’s first amended complaint (ECF No. 4-1).

If Plaintiff chooses to file a second amended complaint, he is advised that a second amended complaint supersedes (replaces) the original complaint, and any previously filed amended complaints, and, thus, the second amended complaint must be complete in itself. *See Hal Roach Studios, Inc. v. Richard Feiner & Co., Inc.*, 896 F.2d 1542, 1546 (9th Cir. 1989) (holding that “[t]he fact that a party was named in the original complaint is irrelevant; an amended pleading supersedes the original”); *see also Lacey v. Maricopa Cnty.*, 693 F.3d 896, 928 (9th Cir. 2012) (holding that for claims dismissed with prejudice, a plaintiff is not required to reallege such claims in a subsequent

1 amended complaint to preserve them for appeal). Plaintiff's second amended complaint must
2 contain all claims, defendants, and factual allegations that Plaintiff wishes to pursue in this lawsuit.
3 Moreover, Plaintiff must file the second amended complaint on this Court's approved prisoner civil
4 rights form, and it must be entitled "Second Amended Complaint."

5 **II. CONCLUSION**

6 For the foregoing reasons, IT IS HEREBY ORDERED that, the Court will not consider
7 Plaintiff's unsigned first amended complaint.

8 IT IS FURTHER ORDERED that if Plaintiff chooses to file a second amended complaint,
9 Plaintiff shall file the second amended complaint within 30 days from the date of entry of this Order.

10 IT IS FURTHER ORDERED that the Clerk of the Court shall send Plaintiff the approved
11 form for filing a § 1983 complaint, instructions for the same, and a copy of his initial complaint, as
12 well as the first amended complaint (ECF Nos. 1-1, 4-1). If Plaintiff chooses to file a second
13 amended complaint, he must use the approved form and he shall write the words "Second Amended"
14 above the words "Civil Rights Complaint" in the caption.

15 IT IS FURTHER ORDERED that, if Plaintiff does not timely file a second amended
16 complaint, the Court will screen the original complaint (ECF No. 1-1) only and will not consider
17 any allegations in the first amended complaint (ECF No. 4-1).

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19 DATED this 30th day of March 2021.

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22 ELAYNA J. YOUCHAH
23 UNITED STATES MAGISTRATE JUDGE
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